



Agenda Item Number: \_\_\_\_\_

## BERNALILLO COUNTY BOARD OF COUNTY COMMISSIONERS

Meeting Date: March 28, 2006

Department: Zoning, Building and Planning Staff Contact: Catherine VerEecke, Program Planner

**TITLE:** APPEAL: Special Use Permit for Specific Use for Service Station including Retail Sales (convenience store to include sale of beer & wine for off premises consumption) and Car Wash (CSU-40028/CO-60004)

### COUNTY PLANNING COMMISSION RECOMMENDATION:

Denial.

### SUMMARY:

At the February 1, 2006 public hearing, following the instructions of the BCC when they remanded the case, the County Planning Commission (CPC) voted (6-1; Facio opposed) to recommend denial of a Special Use Permit for a Specific Use for Service Station including Retail Sales (convenience store to include sale of beer & wine for off premises consumption) and Car Wash on Tract 140H1, MRGCD Map #24, located at 8424 Second Street NW, on the southeast corner of Second Street and El Pueblo Rd., zoned A-1 (Attachment 1—CPC Notice of Decision; See also Attachment 5—Draft Minutes from February 1, 2006 CPC hearing, pp.330-332).

The applicant has contended that the proposed uses should be allowed on the site. He has argued (see pp. 30-67; 75-110; 157-190) that the property is in a commercial area which includes nearby properties in the Village of Los Ranchos) and that changed neighborhood conditions have occurred near the site, including the development of Paseo del Norte and associated traffic, and that more changes are occurring at present, including the development of new apartments northwest of the site and a rail station for public use to the east of the property. Accordingly, he believes the property cannot be sold or developed with residential or agricultural uses. The applicant has also contended that the traffic study for the area near the site predicts that no significant additional traffic would be generated by the proposed uses and that petitions from many residents of the area suggest the need for a convenience store.

However, members of the CPC have noted several issues with the request, as discussed in the staff report (see Attachment 2—CPC Information Packet, pp.9-20, and Draft Minutes from October 5, 2005 CPC hearing, particularly pp.320-325). These included the following: 1) New Mexico Department of Transportation and County Public Works concerns regarding access had not been fully addressed (see pp.192, 217--Letters from DOT); 2) traffic at the intersection of El Pueblo Rd. and Second St. and Paseo del Norte is often extremely heavy and has created safety issues in the area; 3) there is a church/school less than 300 feet to the east, when the proposed uses include the sale of beer and wine (which is prohibited under NM statutes, see pp.26-28); and 4) a convenience store is a highly intense use with potential negative effects on the surrounding area, which also conflicts with County land use plans. In addition, the church, the Alameda North Valley Association, residents from El Pueblo Rd. and residential subdivisions to the south of the property had expressed opposition to the request. The Village of Los Ranchos had also submitted a letter regarding its concerns with the proposed use and its location (p.204).

The applicant is now appealing the CPC recommendation to deny his request. He says “see 11-14-05 submittal for previous appeal (booklet provided to Commissioners.)” (See Attachments 3&4—First and Second Appeal Applications, especially pp.261-288).

Opponents of the appeal (neighboring and nearby property owners and the Alameda North Valley Association) have submitted additional letters of opposition, which focus on the inappropriateness of a convenience store at this particular location (Attachment 6, pp.333-351).

The Village of Los Ranchos has submitted a letter in opposition to the appeal (Attachment 7, p.352).

### **Criteria for Evaluating Zone Map Changes and Special Use Permit Applications**

Resolution 116-86 (see Attachment 8) states that the applicant must demonstrate that the existing zoning is inappropriate because:

1. there was an error when the existing zone map was created; or
2. changed neighborhood or community conditions justifies a land use change; or
3. a different land use category is more advantageous to the community, as articulated in the Comprehensive Plan or other County Master Plan, the even though (1) and (2) above do not apply.

<b>ATTACHMENTS:</b>	<b>PAGE</b>
1. County Planning Commission Notice of Decision Letter (February 3, 2006).	4
2. County Planning Commission Information Packet.	6
3. First appeal request and justification	255
4. Second appeal application	289
5. Draft/Unapproved County Planning Commission Minutes (10/5/05, 2/1/06)	299
6. Neighbors’ responses to appeal	333
7. Village of Los Ranchos opposition to appeal	352
8. Resolution 116-86	358
9. Site Plan (Commissioners Only).	

## **STAFF ANALYSIS SUMMARY**

### **ZONING, BUILDING & PLANNING DEPARTMENT:**

Staff Recommends Denial of Appeal.